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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,918	04/16/2004	Christopher Huston	13833	8919
7590 ORUM & ROTH 53 W. JACKSON BLVD CHICAGO, IL 60604		EXAMINER EPPES, BRYAN L		
		ART UNIT 3635		
		MAIL DATE 12/26/2007		
		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,918	<b>Applicant(s)</b> HUSTON ET AL.	
	<b>Examiner</b> Bryan Eppes	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is a first office action on the merits for application serial number 10/825918 filed 04/16/2004. The office action is in response to the restriction filed 10/04/2007. Applicant's election without traverse of Group II, claims 25-30 in the reply filed on 10/04/07 is acknowledged.

Claims 1-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected

#### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "50"(Pg 3 Line 22) and "44"(Pg. 4 Line 30).
2. The drawings are objected to because reference sign "24"(Pg.6 Line 27) seemingly should be replaced with "42" since "24" has already been used to describe the paddles.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

### ***Claim Objections***

3. Please review the claims regarding the term "acousical," whereupon it may have been the intent of applicant to use "acoustical."
4. Claims 27-30 are objected to because of the following informalities: "the wall" lacks proper antecedent basis. Appropriate correction is required.

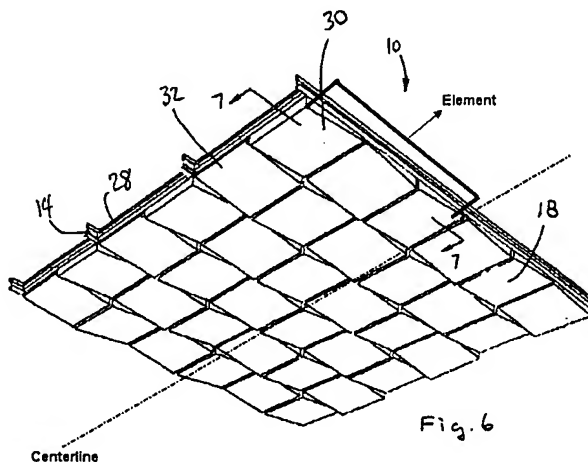
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Wendt (U.S. Patent 6,782,670).



a. Claim 25. Wendt discloses a plurality of acoustical elements comprising a frame 28 and a plurality of angled paddles 18, each having an upper side and lower side; the element between pairs of ceiling joists 14 in a symmetrical pattern about an imaginary centerline running perpendicular to the joists 14 (See Modified Fig. 6). Examiner interprets each "element" as comprising any 3 abutting paddles running parallel with the joists, for example the plane 7 is being construed as a cross section of an "element."

Regarding the claims 25-30, the structure of the apparatus renders the claimed method steps inherent since the claimed method steps would inherently be performed when assembling the ceiling as disclosed by Wendt.

b. Claim 26. Wendt discloses a first acoustical element between joists 14 at a first side of the imaginary centerline;

a second acoustical element at the opposite side of the imaginary centerline between the joists, such that they meet and form a V-shape or inverted V-shape;

additional elements between the pair of joists such that the paddles 18 angle the same direction as the paddles in the adjacent acoustical element, in this case, where the paddles meet in the middle they angle in the same direction and likewise alternate directions moving away from the centerline;

acoustical elements between the remaining pairs of joists; and

alternating the V-shape between adjacent joists (See Modified Fig. 6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt (U.S. Patent 6,782,670) in view of Keegan (U.S. Patent 6,305,495).

c. Claim 27. While Wendt discloses a ceiling system which would likely include continuing from wall to wall however, Wendt lacks a specific disclosure of the system continuing from the center line to a wall. Keegan (Keegan Fig. 1) teaches continuing an acoustic ceiling from center to a wall to provide additional sound diffusing properties. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Wendt with a ceiling system that continues from center to the walls as taught by Keegan to provide additional sound diffusing properties.

d. Claims 29 and 30. Wendt lacks a layer of fabric on the panels. Keegan teaches an acoustical panel having a fabric exterior for aesthetics (Keegan Col. 1 ¶ 6). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Wendt with ceiling panels covered in fabric for aesthetics.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt (U.S. Patent 6,782,670) in view of Keegan (U.S. Patent 6,305,495) as applied to claim 27 above, and in further view of Ruggiero (U.S. Patent 5,361,508).

e. Claim 28. While the Wendt/Keegan combination discloses a ceiling system which would likely include cutting the elements to a proper fit however, Wendt lacks a specific disclosure of cutting the elements to be installed closest to the wall to an appropriate length. Ruggiero teaches cutting the elements closest to the wall to an appropriate length for engaging a proximate wall surface (See Abstract; See *also* Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the Wendt/Keegan combination to include cutting the elements closest to the wall to an appropriate length for engaging a proximate wall surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Eppes whose telephone number is (571) 270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Canfield  
Primary Patent Examiner  
Art Unit 3635



BE  
12/19/2007